

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of:)	
)	
Petition of Somos, Inc. for a Declaratory)	WC Docket 95-155
Ruling Regarding Registration of)	
Text-Enabled Toll Free Numbers)	
)	
Petition for Declaratory Ruling that Text)	WT Docket No. 08-7
Messages and Short Codes Are Title II)	
Services or Are Title I Services Subject to)	
Section 202 Non-Discrimination Rules)	

**Joint Comments of Aerialink Inc., CallFire, Inc., and Twilio Inc. in
Support of Somos, Inc.’s Petition for Declaratory Rulemaking**

Aerialink Inc., CallFire, Inc. and Twilio Inc. (“Joint Commenters”) hereby submit their comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) November 4, 2016, Public Notice in the above-captioned matter. The Commission should grant Somos’ petition (“Petition”) to support the ubiquity and seamlessness of the telecommunications network. Existing numbering conventions, including use of the Commission’s RespOrg system, have supported consumers and competition fairly for many years for toll-free, “8XX” services. Applying those same conventions to 8XX-based text messaging not only makes sense from a policy perspective, but is compelled by the Communications Act (“Act”) and the Commission’s existing regulations. Accordingly, the Commission should grant the Petition.

I. INDUSTRY BACKGROUND

Messaging is the most favored form of communications among consumers today. No dispute exists in the record related to this plain fact. The origins of messaging, of course, come from the wireless industry, where voice and messaging is integrated with service plans and North American Numbering Plan (“NANP”) telephone numbers. As messaging has gained in

popularity, holders of wireline-based NANP telephone numbers (consumers and businesses of all sizes) have wanted to integrate messaging into their communications as well. Each of the Joint Commenters entered the market to, among other things, provide messaging services to wireline NANP number of all sorts, including 8XX numbers.

Demonstrating their commitment to the stability and growth of the sector, each of the Joint Commenters is registered with the FCC, participates in FCC regulatory proceedings, and participates in industry forums, such as those hosted by the CTIA. Although the Joint Commenters compete with one another in the market place to provide text-enabled 8XX numbers and services, they recognize that consumer protection and fair rules of the road are prerequisites to the growth and development of all types of messaging, including 8XX messaging. Accordingly, the Joint Commenters utilize and support Somos' TSS registry and related texting infrastructure.

As is well documented in this proceeding – for 8XX numbers and other wireline NANP numbers – some providers have attempted to bootstrap what they incorrectly perceive as the Commission's silence on messaging matters as a license to block traffic, extort fees, and even steal telephone numbers in an effort to gain a short-term advantage. Not only does this type of malfeasance violate basic Commission principles supporting the ubiquity and seamlessness of the nation's telecommunications infrastructure, but it also serves to harm value of messaging in the medium and long term. Indeed, routing errors have become all too common for 8XX messages, and at least some RespOrgs are expressing concerns about cooperation in the industry for messaging. If consumers or businesses lose faith in messaging, by having their traffic blocked or misrouted, their 8XX numbers misused, or for any other reason, then the sector and potentially the industry will suffer. By contrast, a Commission clarification that its existing 8XX

regulations apply with equal force to messaging would obviate these potentially negative results in favor of predictable, trusted processes that will lead to further industry success.

II. THE RELIEF REQUESTED BY SOMOS IS COMPELLED BY THE ACT, THE COMMISSION’S REGULATIONS, AND COMMON SENSE

The obviousness of the relief request by Somos is so straightforward that it is surprising that Somos even needed to file its petition. Unfortunately, however, a small group of bad actors has attempted to establish “8XX messaging” as an industry segment for themselves, and in so doing, they are violating the Act, the Commission’s rules and orders, and sound policy. To restore order and protect the NANP, the Commission should grant the Petition before the very real abuse identified by Somos and experienced by the Joint Commenters worsens.

Congress granted this Commission explicit authority over the NANP and all uses of the NANP in section 251(e)(1) of the Act. Specifically, section 251(e)(1) provides:

The Commission shall create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis. The Commission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States. Nothing in this paragraph shall preclude the Commission from delegating to State commissions or other entities all or any portion of such jurisdiction.¹

At least relative to text messaging to NANP numbers, including those beginning with 8XX, this language could not be more clear. Pursuant to its exclusive jurisdiction over the NANP, the Commission is **statutorily required** to designate one or more entities to make NANP telephone number available on an equitable basis. For 8XX numbers, the only entity that the FCC has delegated this authority to is Somos. Somos has established an industry-standard registry for text enabling 8XX numbers, and as a matter of law, that’s the end of it. Unless and until the FCC

¹ 47 U.S.C. § 251(e)(1) (emphasis added).

were to make some separate decision regarding text enabling to 8XX number (or any other numbers for that matter), Somos' authority is unquestionable.

As further required by the statute, Somos is "impartial" and makes 8XX numbers available "on an equitable basis." An active competitor certainly could not satisfy section 251(e)(1) Act or the Commission implementing rules, all of which require fairness and impartiality, like Somos provides. For example, a numbering authority must be "impartial and not aligned with any particular telecommunication industry segment."² A designated numbering authority similarly must "assign and administer NANP resources [like 8XX numbers] in an efficient, effective, fair, unbiased, and non-discriminatory manner...."³ An administrative authority must also be able to manage number portability, allowing "the ability of users of telecommunications services to retain existing telecommunications numbers without impairment of quality, reliability, or convenience when moving from one physical location to another."⁴

As a policy matter, the Act and the Commission's regulations and orders mandate that impartial entities administer telephone numbers, including 8XX telephone number, for all purposes, including messaging. NANP telephone numbers are a resource historically shared by the industry a cooperative way. Impartial administration creates an even playing field and protects the ubiquity and seamlessness of the nation's infrastructure. Consumers have choice, and no competing entity is benefited or disadvantaged by the statutorily-mandated NANP framework.

² 47 C.F.R. § 52.12(a)(1).

³ *Id.* at § 52.13(b).

⁴ *Id.* at § 52.21(k).

The very real abuse outlined by Somos stands to turn this successful and predictable system on its head by encouraging competing service providers to try to monopolize the control numbering resources into their service offerings. The Commission has never let anything remotely this egregious stand, and it should not do so now.

III. CONCLUSION

Consistent with the foregoing, the Commission should expeditiously grant the Somos' Petition in its entirety.

Respectfully submitted,

/S

Michael B. Hazzard
Jones Day
51 Louisiana Drive, N.W.
Washington, D.C. 20001

Counsel to Aerialink Inc., CallFire, Inc., and Twilio Inc.

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